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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/217,347	12/21/1998	JOHN G. FIJOLEK	98666	8453

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EXAMINER

KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2611

23

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

TS

Office Action Summary

Application No.

09/217,347

Applicant(s)

FIJOLEK ET AL.

Examiner

Andrew Y Koenig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 19,20.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 31-66 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 31, 32, 34, 35, 37-45, 47, 49-53, and 60-66 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,223,222 B1 to Fijolek et al.

The applied reference has a common inventor with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 31, 32, 34, 35, 37, 49, 64, 65, Fijolek teaches a registration process for a cable modem in a data-over cable system for enabling quality of service

identifiers (Abstract). Fijolek teaches, during initialization, the cable modem registering Class of Service (CoS) and Quality of Service (QoS) parameters with the CMTS (col. 29, ll. 41-52). In this case, the CoS services and QoS are not necessarily activated but identified for a later time, as shown in figure 19, which permits a cable modem at a later time make a QoS request. Accordingly, Fijolek teaches during initialization receiving parameters associated with a plurality of capabilities used for carrying out at least one deferred session-based service between at least one service device and the cable modem. Fijolek discloses that the QoS server could be integral to the DHCP server (col. 29-30, ll. 53-7). Fijolek teaches requesting for a quality of service (fig. 19), which reads on sending the deferred inactive service identifier to the first network device and the establishing a link using the parameters between the first and second network devices (col. 33, ll. 35-65). Clearly, Fijolek creates a service session profile for the desired service, such as assigning a downstream frequency, or an upstream channel ID to the cable modem, in order to communicate effectively between the CMTS and cable modem.

Further regarding claims 32, 35, 44, and 45, Fijolek teaches receiving a request for a deferred inactive service identifier, and activating the service and changing the service identifier from inactive to active, as shown in figure 22, col. 34-35, ll. 66-25.

Regarding claims 38, 50, 63, and 66, Fijolek teaches storing instructions on a computer readable medium for execution by a CPU (col. 10, ll. 10-18).

Regarding claims 39 and 51, Fijolek teaches a first network device as a cable modem and a second network device cable modem termination system (fig. 17).

Regarding claims 40, 52, and 61, Fijolek teaches a SID, which reads on an inactive service identifier as a Medium Access Control (MAC) Protocol Service identifier (col. 10, ll. 20-46).

Regarding claim 41, Fijolek teaches a service parameter of class-of-service (col. 3-4, ll. 40-2).

Regarding claim 42, Fijolek teaches the first message as a registration request (claimed registration) and a second message as a registration response (fig. 17).

Regarding claim 43, Fijolek teaches the registration response encoded in Type-Length-Value (TLV) format (col. 10, ll. 20-46).

Regarding claims 47 and 53, Fijolek teaches authorization and authentication (col. 8, ll. 10-15; see also table 1).

Regarding claims 60 and 62, the limitations of claims 60 and 62 have been addressed in the discussion of claims 31 and 32.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 33, 36, 46, 48, 54, and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,223,222 to Fijolek et al.

Regarding claim 33, 36, and 48, Fijolek is silent on receiving a request to deactivate the active service identifier, deactivating the service, and changing the active identifier to inactive. Official Notice is taken that DHCP Release is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fijolek by releasing a service in order to free the service and efficiently manage the bandwidth.

Regarding claim 56, the limitations of claim 56 have been addressed in the discussion of claims 31 and 33.

Regarding claims 46 and 54, Fijolek is silent on teaches a Remote Authentication Dial In User Server (RADIUS). Official Notice is taken that a RADIUS is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fijolek by using a RADIUS in order to support Dial In connections for the users thereby supporting multiple interfaces.

Regarding claim 57, Fijolek teaches storing instructions on a computer readable medium for execution by a CPU (col. 10, ll. 10-18).

Regarding claim 58, Fijolek teaches a SID, which reads on an inactive service identifier as a Medium Access Control (MAC) Protocol Service identifier (col. 10, ll. 20-46).

6. Claims 55 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,223,222 to Fijolek et al. in view of U.S. Patent 6,337,858 to Petty et al.

Regarding claims 55 and 59, Fijolek is silent on Voice over Internet Protocol. Petty teaches using Voice over Internet Protocol (VoIP) (col. 5, ll. 60-62) via cable modems (col. 6, ll. 21-22). Furthermore, Petty teaches call requests as shown in figures 6-10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DOCSIS by supporting VoIP as taught by Petty in order to enable the user to have phone conversations without using the Plain Old Telephone Service (POTS) system.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. U.S. Patent 6,438,123 Chapman teaches a modem capability field that is set during registration the enables dynamic service addition and deletion requests, which equates to a deferred service identifier (col. 5-6, ll. 50-2)
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



ANDREW FAILE
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